

Montana Coalition of Home Educators

P.O. Box 43

Gallatin Gateway, MT 59730

<http://www.mtche.org>

Testimony of Steve White

Executive Board Member of
Montana Coalition of Home Educators

To the Members of the Senate Education Committee

Stillwater County Homeschoolers
Beaverhead Home Educators
Yellowstone County Home Educators
Ravalli County Parent Educators
Boulder Home Educators
Butte Area Home Educators
Cascade Homeschoolers
Chester Area Home Educators
Colstrip Homeschool Group
East Slope Academic Association
Flathead Valley Homeschoolers Association
Gallatin Valley Homeschoolers
Madison Valley Christian Homeschoolers
Lewistown Homeschoolers
Glendive Area Home Educators
Helena Area Christian Home Educators
Hi Line Homeschoolers
Independent Homeschoolers Network
Laurel Area Homeschoolers
Lincoln County Christian Home Educators
Meagher County Homeschoolers
Mission Valley Homeschoolers
Missoula Homeschoolers Association
Granite County Homeschoolers
Glacier County Home Educators
Park County Homeschoolers Association
Seeley-Swan Homeschoolers
Shelby Home Educators
Whitehall Area Homeschoolers

My name is Steve White. I reside in Bozeman, Montana. I am a founding executive board member of the Montana Coalition of Home Educators, a statewide organization of home schooling families dedicated to raising and educating their children to be productive and successful citizens in our state and country. I am also the publisher of the *Montana Guide to Home Education*.

This testimony is presented in opposition to SB458.

My wife Pam and I home educated our son Matt K-12. Matt graduated in 2000. He then entered MSU-Bozeman. He was awarded the Byrd Scholarship and the prestigious MSU Presidential Scholarship. He graduated from MSU in 2004 with 'highest honors' (3.95 GPA). He is now married and a business owner, living in Bozeman.

SB458 is a bill that is both unnecessary and unwarranted. Homeschooling families across Montana rise up in strong opposition to SB458. As you can see in this hearing, parents and their families agree that modifying any part of our current homeschool law by this bill, is unnecessary. For years, Montana legislators have debated this issue, and concurred that Montana's present homeschooling laws are adequate and are successful.

In **Section 1** of SB458, the sponsor is adding a new responsibility to the county superintendent's duty in page 3, line 16. This is a very significant change, since present law requires a parent to notify the county superintendent, rather than register as a public school student does.

In 1983, SB445 was introduced by Senator Bob Brown. There was a great deal of debate regarding the passage of a bill that would exempt non-public schools (including home schools) from the compulsory attendance laws. Ultimately SB445 was passed 50-0 in the Senate and 62-14 in the House. Thus, the formation of 20-5-109 MCA.

In the debate and passage of the 1983 bill, it was decided that the best office to collect information from private and homeschools was the county superintendent of schools. Legislators in 1983 spent long hours discussing the mechanics of collection, and the relationship of non-public schools and the county superintendent's office. It was never the intention for state law to require a 'registration' of non-public schools.

In Section 2 of SB458, proposes some significant changes to 20-5-109 MCA. Again, this section of law was created in 1983, with the passage of SB445. The proposed changes are completely unnecessary.

All Montana children between the ages of 7 and 16 are subject to Montana's compulsory attendance laws. 20-5-102 MCA lists exemptions to that law. 20-5-109 MCA provides a detail listing of requirements for exemption by private and home schools. (SB458 includes the current text of 20-5-109 on pages 3-4.)

On page 4 of SB458, the bill strikes the word 'notify' and replaces it with 'register'. As referenced above, this change is not a minor change. It purposely reconstructs the underlying authority of our current law, in a way that is totally contrary to the intent of the 1983 bill passage.

On page 4, lines 4-5, SB458 creates a situation that would 'more than likely' eliminate home education for all parents who miss the June 23rd deadline. This strict of deadline is not being proposed for any other educational venue – private or public. **This change is viewed as a direct attack upon the home education community and their right to educate their children.**

Included in that same line is the requirement to provide the child's name and address. This information is already being provided with attendance and immunization records (see: 20-5-109(1) or SB458 page 3, lines 26-27).

On page 4, lines 7-8, SB458 requires the name and address of the parent or legal guardian. The bill sponsor has raised the issue that present notification could be done by an anonymous phone call or letter.

State law demands that a parent comply with all of the requirements of 20-5-109, in order to satisfy compulsory attendance exemption. **It is impossible to satisfy current law that requires notification, WITHOUT including the parent's name and address.** The new language being proposed in SB458 on page 4, lines 7-8 is not needed. **Unless a parent can prove that they have notified the county superintendent, their children are not exempt from Montana's compulsory attendance laws, and thus deemed truant.**

20-5-106 MCA (attached) authorizes truant officers to act 'whenever the truant officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction....'

Parents who falsely claim to be home schooling are not providing the required instruction. There is no loophole. Parents of truant children cannot pretend to be one of us – they are not home schoolers.

Conclusion

SB458 undermines a parent's right to direct the education of their children. The home schooling community in Montana opposes every element and aspect of SB458.

Parents who have chosen to educate their children, have done so out of sacrifice. Often they have reduced their income by one person. As they continue to work and pay taxes for the public schools, they also are buying materials for their own school – with no tax benefit.

Home education in Montana is working. Home educated children continue to become solid citizens - determined to contribute to our state and nation.

Every modification of Montana law by SB458 is unnecessary. The 1983 and 1991 sessions were very clear in their intent when they passed bills regarding a parent's right to home educate their children. Our present laws work. There is no need to change Montana's statutes regarding non-public and home schools. Montana home schooling families are not requesting changes to our law. They are here requesting that present laws remain as is.

We respectfully ask that the Senate Education Committee vote NO on SB458.

Thank you for your service to Montana.

Attachments

Montana Code Annotated 2005

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

20-5-102. Compulsory enrollment and excuses. (1) Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

- (a) the child's 16th birthday;
- (b) the date of completion of the work of the 8th grade.

(2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless the child is:

- (a) enrolled in a school of another district or state under any of the tuition provisions of this title;
- (b) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;

(c) excused from compulsory school attendance upon a determination by a district judge that attendance is not in the best interest of the child;

(d) excused by the board of trustees upon a determination that attendance by a child who has attained the age of 16 is not in the best interest of the child and the school; or

(e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the purposes of this subsection (e), a home school is the instruction by a parent of his child, stepchild, or ward in his residence and a nonpublic school includes a parochial, church, religious, or private school.

History: En. 75-6303 by Sec. 116, Ch. 5, L. 1971; amd. Sec. 1, Ch. 389, L. 1971; amd. Sec. 3, Ch. 91, L. 1973; amd. Sec. 2, Ch. 137, L. 1975; R.C.M. 1947, 75-6303; amd. Sec. 1, Ch. 504, L. 1979; amd. Sec. 1, Ch. 355, L. 1983; amd. Sec. 1, Ch. 249, L. 1991.

Provided by Montana Legislative Services

Montana Code Annotated 2005

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

20-5-109. Nonpublic school requirements for compulsory enrollment exemption. To qualify its students for exemption from compulsory enrollment under 20-5-102, a nonpublic or home school:

(1) shall maintain records on pupil attendance and disease immunization and make the records available to the county superintendent of schools on request;

(2) shall provide at least the minimum aggregate hours of pupil instruction in accordance with 20-1-301 and 20-1-302;

(3) must be housed in a building that complies with applicable local health and safety regulations;

(4) shall provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111; and

(5) in the case of home schools, shall notify the county superintendent of schools of the county in which the home school is located in each school fiscal year of the student's attendance at the school.

History: En. Sec. 2, Ch. 355, L. 1983; amd. Sec. 3, Ch. 498, L. 1989; amd. Sec. 9, Ch. 138, L. 2005.

Provided by Montana Legislative Services

Montana Code Annotated 2005

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

20-5-111. Responsibilities and rights of parent who provides home school. Subject to the provisions of 20-5-109, a parent has the authority to instruct his child, stepchild, or ward in a home school and is solely responsible for:

- (1) the educational philosophy of the home school;
- (2) the selection of instructional materials, curriculum, and textbooks;
- (3) the time, place, and method of instruction; and
- (4) the evaluation of the home school instruction.

History: En. Sec. 1, Ch. 444, L. 1991.

Provided by Montana Legislative Services

Montana Code Annotated 2005

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

20-5-105. Attendance officer -- powers and duties. The attendance officer of any district shall:

- (1) be vested with police powers, the authority to serve warrants, and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;
- (2) take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct him to the school in which he is or should be enrolled;
- (3) do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;
- (4) institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;
- (5) keep a record of his transactions for the inspection and information of the trustees and make reports in the manner and to whomever the trustees designate; and
- (6) perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district.

History: En. 75-6306 by Sec. 119, Ch. 5, L. 1971; R.C.M. 1947, 75-6306.

Provided by Montana Legislative Services

Montana Code Annotated 2005

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

20-5-106. Truancy. (1) Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, he shall notify in writing the parent, guardian, or other person responsible for the care of the child that the continued truancy or nonenrollment of his child shall result in his prosecution under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within 2 days after the receipt of the notice, the attendance officer shall file a complaint against such person in a court of competent jurisdiction.

(2) If convicted, such person shall be fined not less than \$5 or more than \$20. In the alternative, he may be required to give bond in the penal sum of \$100, with sureties, conditioned upon his agreement to cause the enrollment of his child within 2 days thereafter in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, he shall be imprisoned in the county jail for a term of not less than 10 days or more than 30 days.

History: En. 75-6307 by Sec. 120, Ch. 5, L. 1971; R.C.M. 1947, 75-6307.

Provided by Montana Legislative Services

Montana Code Annotated 2005

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

41-3-101. Declaration of policy. (1) It is the policy of the state of Montana to:

(a) provide for the protection of children whose health and welfare are or may be adversely affected and further threatened by the conduct of those responsible for the children's care and protection;

(b) achieve these purposes in a family environment and preserve the unity and welfare of the family whenever possible;

(c) ensure that there is no forced removal of a child from the family based solely on an allegation of abuse or neglect unless the department has reasonable cause to suspect that the child is at imminent risk of harm;

(d) recognize that a child is entitled to assert the child's constitutional rights;

(e) ensure that all children have a right to a healthy and safe childhood in a permanent placement; and

(f) ensure that whenever removal of a child from the home is necessary, the child is entitled to maintain ethnic, cultural, and religious heritage whenever appropriate.

(2) It is intended that the mandatory reporting of abuse or endangerment cases by professional people and other community members to the appropriate authority will cause the protective services of the state to seek to prevent further abuses, protect and enhance the welfare of these children, and preserve family life whenever appropriate.

(3) In implementing this chapter, whenever it is necessary to remove a child from the child's home, the department shall, when it is in the best interests of the child, place the child with the child's noncustodial birth parent or with the child's extended family, including adult siblings, grandparents, great-grandparents, aunts, and uncles, when placement with the extended family is approved by the department, prior to placing the child in an alternative protective or residential facility. Prior to approving a placement, the department shall investigate whether anyone living in the home has been convicted of a crime involving serious harm to children.

(4) In implementing the policy of this section, the child's health and safety are of paramount concern.

History: (1)En. 10-1300 by Sec. 1, Ch. 328, L. 1974; Sec. 10-1300, R.C.M. 1947; (2)En. Sec. 1, Ch. 178, L. 1965; amd. Sec. 1, Ch. 292, L. 1973; Sec. 10-901, R.C.M. 1947; redes. 10-1303 by Sec. 14, Ch. 328, L. 1974; Sec. 10-1303, R.C.M. 1947; R.C.M. 1947, 10-1300, 10-1303; amd. Sec. 1, Ch. 543, L. 1979; amd. Sec. 1, Ch. 494, L. 1995; amd. Sec. 1, Ch. 564, L. 1995; amd. Sec. 1, Ch. 501, L. 1997; amd. Sec. 1, Ch. 566, L. 1999; amd. Sec. 1, Ch. 281, L. 2001; amd. Sec. 1, Ch. 311, L. 2001; amd. Sec. 1, Ch. 504, L. 2003.

Provided by Montana Legislative Services